

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PANSEY HERRIN and OLLIE HERRIN,

Plaintiffs,

v.

Case Number 05-10245

Honorable David M. Lawson

Magistrate Judge Charles E. Binder

ROBERT DENHAM, MARK PENTIGRAPH,
MARK REENE, TUSCOLA COUNTY, and
MICHIGAN STATE POLICE,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION,
DENYING MOTION FOR JUDGMENT ON THE PLEADINGS**

Presently before the Court is the report issued on January 24, 2008 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b), recommending that this Court deny the plaintiff's amended motion for judgment on the pleadings. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 43] is **ADOPTED**.

It is further **ORDERED** that the plaintiffs' amended motion for judgment on the pleadings [dkt # 27] is **DENIED as moot**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 12, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 12, 2008.

s/Felicia M. Moses
FELICIA M. MOSES